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Attorneys for Defendant  
WAL-MART STORES, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE WAL-MART STORES, INC.  
WAGE AND HOUR LITIGATION

CASE NO. C 06-02069 SBA

**CLASS ACTION**

**DECLARATION OF JULIAN W. POON  
IN SUPPORT OF UNOPPOSED  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED**

This Document Relates To:

Case Nos.:  
C 06-02069 SBA (Smith) and  
C 06-05411 SBA (Ballard)

1 I, Julian W. Poon, hereby declare:

2 1. I am an attorney at law duly licensed to practice before this Court. I am a partner in  
3 the law firm of Gibson, Dunn & Crutcher LLP, and represent Defendant Wal-Mart Stores, Inc.  
4 (“Wal-Mart”), in the above-captioned cases and in *Rubin v. Wal-Mart Stores, Inc.* (“*Rubin*”), N.D.  
5 Cal. Case No. CV 08-4214 CW, currently pending before the Honorable Claudia Wilken. I am  
6 personally familiar with the matters stated herein and if called as a witness, I could and would testify  
7 competently thereto.

8 2. I am submitting this declaration in support of Wal-Mart’s administrative motion,  
9 pursuant to Local Rule 3-12, to request that this Court consider whether the above-captioned action  
10 and the *Rubin* action should be related, and the latter action transferred to this Court on the grounds  
11 of such relatedness. I am also submitting this declaration pursuant to Local Rule 7-11(a), which  
12 requires that parties seeking administrative relief submit either a stipulation of all affected parties, or  
13 a “declaration that explains why a stipulation could not be obtained.”

14 3. On or about September 16, 2008, Wal-Mart’s registered agent for service of process  
15 was served with the complaint in *Rubin*.

16 4. Attached as Exhibit A to this Declaration is a true and correct copy of the complaint in  
17 the *Rubin* action.

18 5. Attached as Exhibit B to this Declaration is a true and correct copy of the complaint in  
19 this action.

20 6. On or about September 18, 2008, I spoke with the *Rubin* Plaintiffs’ counsel, who  
21 suggested that *Rubin* was related to this action and should be transferred to this Court based on such  
22 relatedness.

23 7. On or about September 24, 2008, Wal-Mart and the *Rubin* Plaintiffs agreed that the  
24 *Rubin* Plaintiffs would file an administrative motion to decide whether *Rubin* and this action should  
25 be related under Local Rule 3-12.

26 8. When I spoke with the *Rubin* Plaintiffs’ counsel on October 14, 2008, they again  
27 indicated that they were aware of this action when they filed the *Rubin* case, and when I inquired  
28 what the status was of the administrative motion on “relatedness” that they had promised to prepare,

1 the *Rubin* Plaintiffs' counsel promised to get back to me by the end of that week regarding that point.  
2 I have never heard back from the *Rubin* Plaintiffs' counsel to date, despite several more attempts by  
3 me and my colleagues to contact them, which proved unsuccessful.

4 9. Attached as Exhibit C to this Declaration is a true and correct copy of a letter I sent the  
5 *Rubin* Plaintiffs' counsel on October 16, 2008, memorializing our telephonic discussion on October  
6 14 and advising them that if they did not comply with their obligation to "promptly" notify this Court  
7 of the relatedness of the instant case and *Rubin*, then Wal-Mart would have no choice but to do so  
8 itself this week.

9 10. Attached as Exhibit D to this Declaration is a true and correct copy of an e-mail that  
10 my colleague Kahn Scolnick sent on October 29, 2008, to both the *Rubin* Plaintiffs' counsel and  
11 Plaintiffs' counsel in this case, once again urging a response from Plaintiffs' counsel in this matter.  
12 We have received no response from either the *Rubin* Plaintiffs' counsel or Plaintiffs' counsel in this  
13 case.

14 11. Notwithstanding the *Rubin* Plaintiffs' counsel's agreement to prepare and file this  
15 administrative motion and notwithstanding the repeated attempts that my colleagues and I have made  
16 to contact the *Rubin* Plaintiffs' counsel re same, the *Rubin* Plaintiffs have to date failed to do so.

17 12. Consequently, Wal-Mart is now bringing the instant Motion before this Court without  
18 further delay, mindful of the parties' obligation to "promptly" notify this Court of relatedness under  
19 Local Rule 3-12.

20 I declare under penalty of perjury under the laws of the United States of America that the  
21 foregoing is true and correct. Executed this 30th day of October, 2008, in Los Angeles, California.

22  
23  
24 By: /s/ Julian W. Poon  
25 Julian W. Poon

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